

Problems of Soviet procedural law enforcement in 1930s

Alexander Y. Kodintsev

Surgut State University, Surgut, Russia

The subject. Features of the organization of justice and the quality of procedural law enforcement in the USSR in the 1930s.

The purpose. The determination of historical patterns of judicial enforcement in the USSR in the 1930s and the identification of the causes of the ineffectiveness of the proceedings in this period.

Methodology. The author uses historical legal method, formal legal interpretation of statutes, the method of analysis of judicial statistics.

Results, scope of application. After the criminal law campaigns of the early 1930-ies the judgment in the Soviet Union was in a disturbed condition. The Soviet civil process was almost absolutely eliminated. Tens thousands materials of court cases were lost throughout the Union every year. The courts were extremely busy.

The courts used accusatory approach. The petitions of the accused were almost never solved. Prisoners were not handed copies of the indictments.

During the terror of the old evils of the judicial system worsened, the destruction of the judicial process began. The timeframe for completing cases increased. Almost half of criminal cases in case of complaint (appeal) has been revised by the higher courts. The courts again applied the simplified procedure.

At the end of the 1930s the procedural regulation of the judicial work was the duty of People's Commissariat of Justice of the USSR and of the Supreme Court of the USSR. USSR Supreme Court continued to take decisions in litigation in the plenums. The Boards of Supreme Court examines cases influencing law of practice.

The quality of judgment by the Supreme Courts of the Republics of Soviet Union in the late 1930s did not change significantly in comparison with the previous period. This was due to constant staff turnover and low level of qualification of judges. The Supreme Courts of the Republics had no Plenum, so they could influence law of practice by the rulings of of the Boards. These rulings were extremely ignorant in many republics. The low quality of staff in the regional courts led to numerous errors.

The role of statistics in assessing the quality of the judiciary increased.

One of the reasons for the ineffectiveness of the proceedings can be considered as bad organization of work of the courts. So, due to the negligence of secretaries, in some regions up to 50% of the cases appointed for consideration were sabotaged. Low qualification of judges often led to comical or controversial resolution of cases.

Conclusions. Timid attempts of the Supreme bodies of justice to rehabilitate civil and criminal proceedings in the mid 1930s were frustrated during the campaign of the Great Terror in 1936-1938 years. The cycle of rule of law (1933s-1936s) was replaced by a new cycle of lawlessness. Since 1938 the authorities began to make efforts to restore normal proceedings.

The authors distinguish the following main reasons of inefficient work of judicial bodies of the USSR in 1930s: the low qualification of the judges, the dependence of courts on local and Central government, the inability to normally perform some judicial acts, not satisfactory logistical support of court activities, the noisy and senseless political campaigns, unleashed by Stalin.

Keywords: history, law enforcement, representation of the head of department of the Ministry of Justice, Supreme Court of the USSR decrees, criminal law campaign, civil proceedings, court procedure

Информация о статье:

Дата поступления – 30 января 2017 г.

Дата принятия в печать – 20 апреля 2017 г.

Дата онлайн-размещения – 20 июня 2017 г.

Article info:

Received – 2017 January 30

Accepted – 2017 April 20

Available online - 2017 June 20

1. The degree of scientific elaboration of the subject of research

The history of the application of procedural rules in the Soviet Union is not well-known. Practice of enforcement of the Criminal Procedure Code and the Code of Civil Procedure of the RSFSR in 1923 has not been studied. Some problems have been discussed in the process of 30-50 years of the twentieth century [4,5,6,7,8,9,10, 11].

2. Organization of legal proceedings in the 1930s

After criminal legal campaigns of the early 1930s, justice in the USSR was in an upset state. The Soviet civil process it was actually dissolved. People's Commissar of Justice of the RSFSR N.V. Krylenko destroyed procedural rules. Civil cassation boards of supreme and regional courts (except for the Supreme Court of the USSR) were liquidated. Since 1933, the first party providing guidance expressed dissatisfaction with the low quality of the judicial investigation. A.N.Vinokurov USSR and USSR Prosecutor Vyshinsky wanted to establish a system of justice. At the 46th Plenum of the Supreme Court of the USSR (March 1934) M.I. Vasiliev-Ugine has prepared a report on the work of the supervisory Troika of the USSR Armed Forces in 1933. He noted a poor conduct of preliminary investigation. Prosecutor's office did not supervise the investigation and was alleged incompetent and biased verdicts of a exception. This material has not been tested by the courts and can only be revealed in the court. According to him: "The instructions are either not digested at all, or are carried out with great delay after a series of reminders and yet in a perverted form." After the Plenum of the many judicial authorities leaders favored the restoration of normal justice and for the revival of the tradition of the stage of court (administrative court hearing).

Wyszynski and Vinokourov made the restoration of civilian colleges. After the revival of the Civil Division the Supreme Court urged the courts to comply with the CPC of the RSFSR. "Any kind of oversimplification in the application prospect of procedural rules, in order to" accelerate "the conduct of the case and" accelerate "the work of the court, in fact, in the s binds red tape and then cancel the decision ... because of insufficient survey works" (from part of the formation of the USSR Supreme). Within a few years the Supreme Court fought for the restoration of the preliminary hearing.

3. State of the proceedings in the courts in the 1930s

In 1935, the Soviet Control Commission held a massive inspection. In all regions, Numerous procedural breaches have been established, including: disorderly consideration of cases (one day before 60 cases); delaying of cassation terms of consideration of cases; absence of preparatory court sessions; hearing of cases without looking people's judges. Over half of the sentences were canceled. Many months of delay in the execution of sentences. The lack of oversight by the prospect of the prosecution. [12, 13].

You can add a large number of "missing" (sold, destroyed on conjugated) cases to this list. Thousand cases were lost annually throughout the Union. 141 criminal cases disappeared in Uzbekistan in 1935. 49 cases were lost in Sverdlov Oblast. In the same area during the transfer of cases from the national judge to the new one 374 cases were missing. The Instruction of 06.01.1925 on the "Procedure for the recovery of lost, destroyed or stolen cases" continued functioning. Passed decades has completely changed legislation in the field of justice in the USSR.

4. Quality of legal proceedings in the 1930s

The courts were extremely overloaded with cases. Thus, in the USSR in 1934 1 trial portion functioned for 45000 people (at a normal rate of 20,000). Kaches tonnes in the work of courts is low. In the USSR in 1935 g of H1. Of the appealed verdicts of the people's courts, only 64% of the judgments were left in force, 74.5% of the regional courts. Ignorance of the judges led to the terrible consequences of the claim. For example, in the USSR in 1934 g of. RSFSR Supreme Soviet canceled and changed 25% sentences to capital punishment! In such cases sentences imposed in absentia, in flagrant violation of the rules of procedure, most of the claims were built on the testimony of one witness or self-incrimination. For example, VA Branetsky during major prospect of assignment on the activities of counterrevolutionary organizations looking case materials, wasps have dil 2

people to death, no prospect of having read protocols (they have been sentenced to imprisonment by the judges). Requests convicted on appeal the sentence was about to graver and so they were shot.

In April 1936 A.A. Lisitsyn (chairman of the civil college of RSFSR Supreme Court) surveyed the Sverdlovsk region. The test the Sverdlovsk regional court showed a lot of gross violations. In the courts there was an accusatory bias. The petitions of the accused were almost never satisfied. Prisoners are not handed over copies of accusing and-negative and prisoners. Separate complaints lay without movement until 15 months. Definitions of the RSFSR Supreme Court for the release from custody of wrongly convicted persons were not carried out "because it was impossible to find out their whereabouts". Many things were lost. In most courts were not the retiring room, rooms for witnesses, for real proof and rooms for the archive. Witnesses were sitting on the street, the files were lying around in different places.

At the plenary sessions of the USSR Supreme Council continued to take decisions on judicial practice to make determinations affecting the judicial policy. So, 58 Plenum (19-23 September 1937) ruled that the case-law on the application of the law from 07.08.1932, the socialist property of protection in cases of illegally produced abortion. 59 Plenum (26-30 December) adopted a resolution on cases of violations of those nicks's security and application of the law from 14.09.1937, the (case on the counter of the evolutionary sabotage). Similar decrees and definitions were adopted by the Presidium of the Supreme Council of the RSFSR and the Collegium of the Court.

The deadlines for passing cases in courts grew. In 1937, 22.7% of all cases with RA under consideration in the people's courts over a month. For example, in the first quarter of 1937 the court considered criminal cases 15.6% and in the second quarter - 30% respectively. In the RSFSR in 1936, up to 10 days, 41.1% of cases were considered, and in 1937-1938, - 33-34%. The Supreme Courts of the Union Republics for the same number of criminal cases increased by 2 times. The Supreme Court of the Azerbaijan on 01.01.1938, the accumulated 4000 cases in the RSFSR Supreme Soviet - 3296.

Trying to unload themselves, the courts again applied simplified legal proceedings. In a number of the Moldavian ASSR courts in 1937 100 private prosecutions were assigned during one day, which were stopped for nothing. The judges wrote protests on their own verdicts. In the People's Court of the Sokolniki district (Moscow) on separate days, it took 6-7 minutes for one thing to do. There was a degradation of the appeal proceedings (in October 1937 the Soviet Union took place NKJU asset for the organization of the appeal of practice). The appeals court did not notify the parties of the date the hearing. Cassation cases were often not read and not even reported. Judiciary practically stopped considering complaints. Only in the Moscow Regional Court and the Moscow City Court in 1938 there were 2000 outstanding complaints unheard.

7. Justice regional and people's courts

Somewhat different situation was the situation in the regional courts. On the one hand, they were on the supervisory affairs, on the other hand, received an additional burden in the form of the counter on the evolutionary cases and to revise the sentences in the Soviet-collective-farm asset. Poor quality of staff of the regional courts has led to numerous errors. A member of the Chelyabinsk regional court made 20 spelling errors in documents (the judge had worked for 9 years). Nevertheless, on the eve of the war restored the normal court in the regional courts of production. This phenomenon was due to the relative stabilization of the frame, with reduced number of criminal cases. Even in the 1st quarter of 1939 in the Supreme 's Court used the face of the number of contested / appealed the verdict was overturned 38.9% (in Uzbekistan - 64.1%, of the RSFSR - 40%).

Hardly out of the crisis was chosen system of people's courts. Order Rychka of Islands number 21 (1938) directed the courts to restore normal proceedings that were labor etc. nodostizhimo in that situation. Nevertheless, work on the implementation of the order lasted half a year. Following practice in the work of the courts is added to the time. During the next heroic "clearing" of cases, accompanied by massive violations of procedural law and falsification reports, the remainder of cases declined sharply, and the year ended with "satisfactory". The people's courts, crowded affairs and

consisting mainly of incompetent Started t nicknames accumulated balances and participated in political campaigns unleashed by director and IOM. As a result of all the work of the court looked like a rush work. Nevertheless, the leaders of UST and tion gradually lined up in B with the theme of people's courts and tried to make it work more effective to the contrary.

8. Evaluation of the quality of justice in the 1930s

According to P. Solomon, the role of statistics in assessing of the judiciary increased. He pinpointed that the main indicators for the unfulfilled cases could punish the judge, the remainder of the cases objectified specific period, the percentage of sentences that have been canceled by higher courts. P. Solomon rights that periodically emphasis is on the fact that the other criteria. Initially, there was a struggle for the reduction of residues of affairs, and then (in 1940), emphasis was placed on the quality of sentences. And during the busy pace of campaigns mainly steel consideration. With at di, sought to falsify the data, to detain them. They were afraid that they themselves will build and produce during the next campaign.

Low qualification of the judges often led to anecdotes or scandals. In one case the judge allowed such momentum as "due to lack of clarity of Article 82 of the Criminal Code". Judges used documents with profanity, drew pictures, often uttered. Simple-minded judge Evsikov said that he would give a lower punishment, but it is impossible, that is the policy of the party. Hundreds of the cases lay unsigned [27, p. 2; 26, p. 19-20; 28, p. 55, 64].

9. The judicial statistics in the late 1930s

In the second half of 1940, during a violent political campaign the judiciary statistics has improved dramatically. The Workers Justice Commissariats were proud of the result achieved. In fact, it was a game with numbers. Frantically looking at millions of cases during the campaign, people's judges spend on reviewing each of them a small amount of time. But the improved overall performance in respect of proceedings in general. In fact, all the usual cases out of political campaigns lay motionless on for 1 year or more. The quality of their consideration has fallen.

For example, in the Chelyabinsk region the number of criminal cases in In 1939 - the first half of 1940, almost no increase in the number of excitations, investigated the cases reviewed. Increased quality of judgments. Mitigating the general nature of repression. According to MV Kozhevnikova, compared with the 1st half of 1933 the number of convicts in the RSFSR and the Ukraine decreased by 2 times, in the Byelorussian SSR - 3 times. In 1937, the people's courts of the USSR condemned the 685,835 people of the century, in 1938 - 659,235 in 1939 - 684,022 in 1940 - 1,824,180 (without the decree 26-6 - 826 039), in 1941 - 2,433,234 (908,465). The total number of convicted even without the decree on labor etc. ie revenue earned has increased dramatically in 1940 and 1941 respectively. Increased the number of persons convicted for stealing public property, theft of personal property, evasion of cash, forest felling, for malfeasance. The number of the counter of an historic cases handled by the regional, supreme courts and the military tribunals. The share of persons sentenced to leash e NIJ freedom from 37.8% in 1938 to 64.7% in 1941. Up to 2 years imprisonment was condemned by 21.2% of persons of age in 1937 and to 74.9% in 1940. The proportion of suspended sentences has decreased and the state and the villa in 1941, 3.3% [15, p. 283-284].

10. Conclusion

Timid attempts to the higher judicial authorities on the recovery process in the mid-30s were disrupted during the Great Terror campaign in 1936-1938. The cycle of a legality (1933-1936) was replaced by a new cycle of lawlessness. Since 1938, the authorities began efforts to restore the normal procedure. Measures of acceptance of Commissariats of Justice to improve the performance and quality of district courts in the USSR in the late 30-ies were disrupted during the new campaigns of 1940-1941. We can identify the following main reasons for the inefficiency of work of judicial bodies of the USSR: the low qualification of judges, the dependence of courts on local authority, inability to properly execute the part of the court acts, political campaigns.

REFERENCES

1. Grischenko I.A. Legislation on criminal proceedings in crimes against Soviet power and its implementation during the period of the most large-scale political repressions in the USSR. 1939-1941 years .: dis. For the academic degree of Cand. Jurid. Sciences. Krasnodar, 2007.
2. Gubzhokova L.A. Criminal and political processes during the strengthening of the AKS of the Soviet state (1929-1934 gg.) .: dis. For the academic degree of Cand. Jurid. Sciences. Red Gift, 2007.
3. Sokolova N.V. Stages of the formation of the procedural law of Russia: from 1917 to the present time .: dis. For the academic degree of Cand. Jurid. Sciences. Vladimir, 2007.
4. Arseniev B.Ya. Guarantee of individual rights in the Soviet criminal trial .: dis. For a doctorate degree. Jurid. Sciences. M., 1947.
5. Koblikov A.S. The judicial investigation in the Soviet military tribunal .: dis. For the academic degree of Cand. Jurid. Sciences. M., 1954.
6. Levin N. Defense in the Soviet criminal trial (in the formal sense) .: dis. On the development of the scientific degree of Cand. Jurid. Sciences. L., 1946.
7. Martinovich II Development of the court and criminal procedural forms of judicial activity in the Byelorussian SSR (1917-1967 gg.) .: dis. For a doctorate degree. Jurid. Sciences. Minsk, 1968.
8. Perlov I.D. Trial in the Soviet criminal trial .: dis On the co-development of the doctor's degree. Jurid. Sciences. M., 1956.
9. Soviet law during the Great Patriotic War. Part 2. Criminal Law-Criminal Process. Ed. I.T. Golyakova. M., Jurid. Publishing House of the Ministry of Justice of the USSR, 1948.
10. Cheltsov-Bebutov M. Essay on the history of the Soviet criminal process. M., 1948.
11. Khutyz M.H. General provisions of the civil process (historical and legal essay). M., 1979.
12. Iodkovsky, D. More attention to people's judges / D. Iodkovskii // The power of the Soviets. - 1936. - № 6. - pp.23-24;
13. Lahovier, N. Harmful simplification in investigative and judicial work / N. Lagovier // Soviet Justice. - 1934. - No. 10. - pp.7-8;.
14. Kodintsev A. Y. Control system of judicial execution in the USSR in 30-ies of XX century // Executive law. 2007. No. 2. Pp. 2-6.
15. Kozhevnikov, M.V. History of the Soviet court. M., 1957.
16. History of the legislation of the USSR and the RSFSR in the criminal process. M., 1952. - P.575;
17. Shalamov, M. The judicial system of Kazakhstan. M., 1941.
18. Efanov, A.A. Plenum of the Supreme Council of the USSR / A.A. Efanov // The Supreme Judiciary of the USSR. - M., 1984.
19. Smolentsev E.A. Supreme Court of the USSR and Supreme Courts of Union Republics / E.A. Smolentsev // The highest judicial organ of the USSR. - M., 1984..
20. Kuznetsov. In the Supreme Court of the RSFSR is unfavorable / Kuznetsov // Soviet Justice. - 1939.- No. 2.
21. Spektor, E. In the Supreme Court of the RSFSR is still unfavorable / E. Spektor // Soviet Justice .- 1939.-No. 9.
22. Lieberman, A. The pace of work of the Supreme Court of the RSFSR / A. Lieberman // Soviet Justice. -1939.- No. 12.
23. Gavrilin, M. Volokit and bureaucracy in the courts of the Uzbek SSR / M. Gavrilin // Soviet State. -1939. -No.9-C.45;
24. Danishevsky, A. How do the NKJ and the judicial bodies of the Ukrainian SSR / A. Danishevsky // Soviet Justice .- 1939. - No. 14
25. Solomon, P. Soviet Justice under Stalin. M., 1998.
26. Grechuha, M. My work is the people's judge / M. Grechuha. - M., 1940.
27. Gorshenin, K. Results of the All-Russian Conference of Leaders of Justice Authorities / K. Gorshenin // Soviet Justice. 1941.-No. 22

28. Nastyuk, M.I. Formation of Soviet judicial bodies in the western regions of the Ukrainian SSR (1939 - 1941) // Problems of Jurisprudence. The Republican interdepartmental scientific collection. Issue. 36. - Kiev: Vishcha shk., 1977.

<p><i>Информация об авторе</i> Кодинцев Александр Яковлевич доктор юридических наук, профессор кафедры теории и истории государства и права Сургутский государственный университет 628412, Россия Ханты-Мансийский автономный округ, г.Сургут, ул. Ленина,1 e-mail: Balsak1@yandex.ru SPIN-код: 9315-3825, AuthorID: 679446</p>	<p><i>Information about the author</i> Alexander Y. Kodintsev Doctor of Law, Professor, Department of Theory and History of State and Law Surgut State University, 1, Lenina ul. Surgut, Khanty-Mansiyskiy avtonomnyy okrug, 628412 e-mail: Balsak1@yandex.ru SPIN-code: 9315-3825, AuthorID: 679446</p>
<p><i>Библиографическое описание статьи</i> Кодинцев А.Я. Проблемы применения советского процессуального права в 30-е годы XX века. / А.Я. Кодинцев // Правоприменение. – 2017. Т. 1, № 2. – С.19-30. – DOI 10.24147/2542-1514.2017.1(2).19-30</p>	<p><i>Bibliographic description</i> Kodintsev A.Y. Problems of Soviet procedural law enforcement in 1930s. Pravoprimerenie = Law Enforcement Review, 2017, vol. 1, no. 2, pp.19-30. – DOI 10.24147/2542-1514.2017.1(2).19-30 (In Russ.).</p>